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No. —, Original

In the Supreme Court of the United States

OCTOBER TERM, 1955

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA

MOTION FOR LEAVE TO FILE COMPLAINT, COMPLAINT AND BRIEF IN SUPPORT OF MOTION

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UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA

MOTION FOR LEAVE TO FILE COMPLAINT

The United States of America asks leave of the Court to file its complaint against the State of Louisiana submitted herewith.

HERBERT BROWNELL, JR.,
Attorney General.

SIMON E. SOBELOFF,
Solicitor General.

J. LEE RANKIN,
Assistant Attorney General.

DECEMBER, 1955.

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UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA

COMPLAINT

The United States of America, by its Attorney General and its Solicitor General, brings this suit against the defendant, the State of Louisiana, and for its cause of action states:

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of the United States, and Title 28, United States Code, Section 1251(b)(2).

II

On June 5, 1950, the United States was and, except as set forth in Paragraph IV hereof, has ever since been, and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the

Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana to the edge of the continental shelf; and the State of Louisiana did not have on June 5, 1950, and, except as set forth in Paragraph IV hereof, has never since had and does not now have any title thereto or property interest therein.

III

On December 11, 1950, in the case of *United States* v. *Louisiana*, 340 U.S. 899, this Court entered its decree enjoining the State of Louisiana from taking or removing any petroleum, gas, or other valuable mineral products from the lands underlying the Gulf of Mexico, extending seaward twenty-seven marine miles from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, and enjoining the State from carrying on any activities for that purpose upon or in that area, except upon authorization of the United States, and directing the State of Louisiana to account to the United States for all sums derived by the State from that area after June 5, 1950, which were properly owing to the United States under that decree, the opinion entered by this Court in that case on June 5, 1950, 339 U.S. 699, and applicable principles of law.

IV

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to

the State of Louisiana the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters unless the boundary of said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom, and not extending seaward more than three marine leagues therefrom in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Louisiana or under its authority in the area so granted.

V

When the State of Louisiana became a member of the Union its boundary did not extend into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

VI

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from

the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, extending seaward to the edge of the continental shelf, and is entitled to an accounting for all sums of money derived by the State of Louisiana after June 5, 1950, from the area lying more than three, and less than twenty-seven, geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, which are properly owing to the United States under the decree entered by this Court on December 11, 1950, in the case of *United States* v. *Louisiana*, 340 U.S. 899.

VII

The State of Louisiana claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, has invited bids for leases of submerged lands within said area, has threatened to bring suits against lessees of the United States to enjoin them from operating therein, and has not accounted to the United States for all or any sums of money derived after June 5, 1950, from the area lying more than three, and less than twenty-seven, geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana.

There is urgent need for exploration and develop-

ment of the mineral resources of the area described in Paragraph VI hereof. On August 7, 1953, by Public Law 212 of the 83rd Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, Congress declared the existence of such need and provided that it should be met by the issuance of mineral leases in that area by the Secretary of the Interior to private operators. The Secretary of the Interior has issued such leases of tracts in the area in dispute, and is desirous of continuing to do so. By its conduct described in Paragraph VII hereof the State of Louisiana has interfered with and obstructed, and is interfering with and obstructing, the orderly and effective exploration, leasing, and development of said mineral resources, and will continue to do so and will thereby cause great and irreparable injury to the United States unless the rights of the United States are declared and established by this Court. The United States has no other adequate remedy.

IX

The original jurisdiction of this Court is invoked because there is urgent need for prompt and final settlement of the controversy, and because the fundamental question in issue is the width of the marginal sea within the jurisdiction of the United States, which involves inquiry into and application of the foreign policy of the United States in a matter of peculiar importance and delicacy and is most appropriately a subject for original adjudication by this Court.

WHEREFORE, the United States prays that a decree be entered declaring its rights as against the State of Louisiana in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana and extending seaward to the edge of the continental shelf, enjoining the State of Louisiana and all persons claiming under it from interfering with the rights of the United States therein, and requiring the State of Louisiana to account for all sums of money derived after June 5, 1950, from the lands underlying the Gulf of Mexico, lying more than three, and less than twenty-seven, geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana.

HERBERT BROWNELL, JR.,
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SIMON E. SOBELOFF,
Solicitor General.

J. LEE RANKIN,
Assistant Attorney General.

BRIEF IN SUPPORT OF MOTION

JURISDICTION

The United States seeks to bring this suit against the State of Louisiana under the authority of Article III, Section 2, Clause 2, of the Constitution of the United States and Title 28, United States Code, Section 1251(b)(2).

STATEMENT

The purpose of this litigation is to establish the rights of the United States in the lands and natural resources of the bed of the Gulf of Mexico adjacent to the State of Louisiana, beginning at a line three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters and extending seaward to the edge of the continental shelf.

By its decree of December 11, 1950, in the case of *United States* v. *Louisiana*, 340 U.S. 899, this Court declared the United States to be entitled, as against the State of Louisiana, to the submerged lands and natural resources of the bed of the Gulf of Mexico, extending seaward twenty-seven marine (or geographic) miles from the ordinary low-water mark and from the outer limit of inland waters along the coast of Louisiana.[1] The decree enjoined the State from extracting or carrying on activities for the purpose of extracting minerals therefrom without consent of the United States, and required the State to account for all sums of

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[1] Only twenty-seven miles was in issue in that case, since that was the extent of the State's claim.

money derived from that area after June 5, 1950, which were due to the United States under the Court's opinion (339 U.S. 699), the decree, and applicable principles of law.

On May 22, 1953, before any accounting was made,[2] Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, took effect. 67 Stat. 29, 43 U.S.C., Supp. II, 1301-1315. By that Act the United States granted to Louisiana such part of the area covered by the decree of December 11, 1950, as lay within the boundaries of the State, but not extending seaward more than three geographic miles from the ordinary low-water mark and from the outer limit of inland waters unless the boundary of the State as theretofore approved by Congress or as existing when the State became a member of the Union extended therefrom more than three geographic miles, and not extending therefrom more than three marine leagues in any event.[3] By the Act the United States also released its claim for money or damages arising out of any operations

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[2] By letter of July 23, 1951, the Attorney General of Louisiana did submit to the Solicitor General a statement of monies received by the State between June 5, 1950, and July 18, 1951, from offshore mineral operations seaward of the line claimed by the United States to be the low-water mark and outer limit of inland waters. However, that letter reserved Louisiana's objections to the line so designated, and stated that "a correct report cannot be made until such line is definitely fixed and agreed upon." The State and the United States have not agreed upon the line, or on the amount due to the United States under the decree. The State has not paid or tendered any money to the United States, and has not reported its receipts from such operations after July 18, 1951.

[3] The power of Congress to make that grant was sustained in *Alabama* v. *Texas*, 347 U.S. 272.

by the State of Louisiana or under its authority in the area so granted. The Act approved any past or future extension by the State of its boundary to a distance of three geographic miles seaward from the ordinary low-water mark and outer limit of inland waters.[4] The legislative history of the Act shows that, within the limitations just stated, Congress intended the grant to be coextensive with the State boundary, wherever that boundary might be, but recognized that the location of the boundary, being a pre-existing fact, was more appropriately a subject for judicial than for legislative determination. Accordingly, Congress expressed no view as to the location of the boundary, intending and expecting any dispute regarding its location to be determined by this Court.[5]

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[4] Presumably this ratified, *pro tanto*, Louisiana Act 55 of 1938, purporting to extend the boundary to twenty-seven miles from the coast, thus giving the State a three-mile boundary at least from that time. The State now claims three leagues (nine geographic miles) from a very extended line claimed to be the outer limit of inland waters. Act 33 of 1954, amending La. Rev. Stat. (1950), Title 49, sec. 1.

[5] See, *e.g.*, these statements made during the debates on the Submerged Lands Act, regarding ascertainment of the location of State boundaries for the purposes of the Act:

Senator Cordon (in charge of the bill): "That question can be determined and should be determined in 1 of 2 ways, either by agreement through a resolution adopted by the Legislature of the State of Florida and by Congress, or by a decision of the Supreme Court of the United States." 99 Cong. Rec. 2621.

Senator Holland: "The committee decided, wisely, I believe * * * that if there is a dispute as to where the boundary of a State runs, it will necessarily require legal determination and decision by the United States Supreme Court * * *." 99 Cong. Rec. 2621.

Senator Douglas: "The Supreme Court will have to move

On May 19, 1955, the United States filed a motion in the case of *United States* v. *Louisiana*, No. 7, Original, asking this Court to modify its decree and injunction of December 11, 1950, in that case, insofar as it excluded the State from operating in the area subsequently granted to it by Congress under the Submerged Lands Act, and insofar as it required of the State an accounting for receipts from that area, forgiven by Congress under the same Act. The State filed a motion and plea to the jurisdiction of this Court in the matter, asserting that the Court lacked jurisdiction to modify the injunction after expiration of the Term in which it was entered, and that the relief sought by the United States could be secured only in a new suit brought for that purpose. On October 10, 1955, this Court denied the Government's motion without opinion.

ARGUMENT

I

There is a controversy between the parties requiring adjudication

The State of Louisiana claims that when it became a member of the Union its boundary extended into the Gulf of Mexico three leagues from the low-

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within the language of the joint resolution * * *." 99 Cong. Rec. 2896.

Senator Long: "The Senator from Illinois has expressed such admiration for the Supreme Court that I would not think he would hesitate to leave that question to the Court." 99 Cong. Rec. 2896.

Senator Anderson: "But I say that is a matter the Supreme Court will have to settle, and those are questions which must be handled by the Supreme Court." 99 Cong. Rec. 3037.

water mark and outer limit of inland waters, and has ever since extended and now extends that distance or more. Accordingly, the State claims to have received under the Submerged Lands Act a grant of submerged lands and natural resources extending three leagues into the Gulf of Mexico. The United States, on the other hand, takes the position that when Louisiana became a member of the Union its boundary did not extend more than three geographic miles seaward from the ordinary low-water mark or from the outer limit of inland waters, and in addition was limited to that extent by the national maritime boundary, which extended seaward only that far; that Congress has never approved a more extended boundary for Louisiana; and that in consequence the grant to the State under the Submerged Lands Act was limited to an extent of three geographic miles.[6] The existence of this dispute and the need for adjudication was recognized by the State of Louisiana in a motion to perpetuate testimony filed by it in

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[6] The United States asserted jurisdiction over the natural resources of the continental shelf under the high seas adjacent to its boundaries on September 28, 1945 (Presidential Proclamation No. 2667, 59 Stat. 884), and over the subsoil and seabed thereof by the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462, 43 U.S.C., Supp II, 1332). These assertions of jurisdiction do not include the overlying waters, and do not extend the national maritime boundary in the ordinary sense. Neither do they extend the boundaries of the coastal States. They are not material in determining the extent of the grant made by the Submerged Lands Act, since that grant is expressly limited to three miles unless the State had a more extended boundary when it entered the Union or as approved by Congress. Secs. 2(a)(2), 3(a), 67 Stat. 29, 30; 43 U.S.C., Supp. II, 1301(a)(2), 1311(a).

this Court on December 2, 1955. *In the Matter of the State of Louisiana*, No. 14, Original.

By Section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462, 468, 43 U.S.C., Supp. II, 1337), Congress has declared the urgent need for further exploration and development of the oil and gas deposits of the outer continental shelf,[7] and has provided for such exploration and development through leases by the Secretary of the Interior to private operators. The Secretary of the Interior has issued oil and gas leases covering tracts in the disputed area and is desirous of continuing to do so. The State of Louisiana has made repeated public assertions of its claim to areas lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters, has published invitations for bids for leases therein, and has publicly threatened to institute suits to enjoin operations therein by lessees of the United States. The State's claims and threats are interfering with the orderly and effective exploration and development of the mineral resources of the disputed area. In addition, the State has not accounted for any sums of money derived by it from the submerged lands of the Gulf of Mexico after June 5, 1950 (see *supra*, p. 10), and will not do so until there is a final determination of its claim that the Submerged Lands Act has released it from its obligation to make such account-

[7] *I.e.*, the continental shelf seaward of the three-mile limit and State boundaries. 67 Stat. 29, 462; 43 U.S.C., Supp. II, 1301, 1331.

ing as to an area extending more than three geographic miles seaward from the ordinary low-water mark and outer limit of inland waters.

For these reasons, the United States seeks to secure a new declaration of its rights in the submerged lands and resources lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters along the coast of Louisiana and, as an incident thereto, to establish its right to an accounting, under the decree of December 11, 1950, for sums derived by the State from such lands after June 5, 1950. The decree sought at this time is exactly comparable in terms to those entered in the cases of *United States* v. *California*, 332 U.S. 804, *United States* v. *Louisiana*, 340 U.S. 899, and *United States* v. *Texas*, 340 U.S. 900. That is to say, like them, it will identify the area in suit by its relationship to the ordinary low-water mark and outer limit of inland waters without determining the physical location of the area on the ground in any particular locality. Such a decree can be entered with a minimum of delay. In the view of the United States, it will not require the taking of any evidence, but involves only questions of law and matters of which the Court will take judicial notice.

II

This is an appropriate case for exercise of the original jurisdiction of this Court

This case is one which eminently justifies invoking the original jurisdiction of this Court. It is

not a case of merely monetary importance (although the value of the subject matter is enormous), nor is it one of only local or transitory significance. While the immediate issue concerns the extent of Louisiana's proprietary rights under the Submerged Lands Act, that question depends, under the terms of the Act, on the territorial extent of the State's political jurisdiction in the Gulf of Mexico, which in turn is limited by the extent of the jurisdiction of the United States. Thus the case requires inquiry into and application of the foreign policy of the United States, on the one hand with respect to its territorial claims against other nations, and on the other hand with respect to its assertion and recognition of freedom of the seas. These are subjects of great importance and delicacy; and where, as here, they arise not merely in a collateral way as bearing on private rights, but directly with respect to a determination of the jurisdiction of the State and nation, it is most appropriate that the inquiry be undertaken by this Court in the first instance.

It was repeatedly recognized during the congressional debates on the Submerged Lands Act that the questions raised here can be set at rest only by a decision of this Court.[8] As Congress declared in the Outer Continental Shelf Lands Act, there is an "urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf."

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[8] See footnote 5, page 11, *supra*.

67 Stat. 468, 43 U.S.C., Supp. II, 1337(a). So long as there remains this dispute between the nation and the State as to which is entitled to control the development of the area, adequate exploration and development will be impeded or prevented. The case should, therefore, be considered under the procedure that will permit the rendering of a decision by this Court at the earliest possible time. The interests of convenience, efficiency and economy would thus best be served. The questions raised are questions of law, involving no facts beyond those of which the Court may take judicial notice;[9] consequently no helpful purpose would be served by having the case come before this Court on findings of fact made by a lower court.

The issues presented here grow out of, and are in a sense but a continuation of, those presented in the cases of *United States* v. *California*, 332 U.S. 19, *United States* v. *Louisiana*, 339 U.S. 699, and *United States* v. *Texas*, 339 U.S. 707. They are of equal urgency and importance. The considerations which led this Court to take jurisdiction of those cases as original suits should have the same effect here.

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[9] After the width of the State's marginal belt is determined, any factual dispute regarding its location on the ground can appropriately be made the subject of supplemental proceedings before a special master, as in *United States* v. *California*, 332 U.S. 19.

CONCLUSION

It is respectfully submitted that the motion for leave to file the complaint should be granted.

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DECEMBER 1955.

U. S. GOVERNMENT PRINTING OFFICE: 1955 988443 709